

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/790,043	01/28/97	PAYNE	D GM50005

HM32/0119

SMITHKLINE BEECHAM CORPORATION
CORPORATE INTELLECTUAL PROPERTY UW2220
P O BOX 1539
KING OF PRUSSIA PA 19406-0939

EXAMINER

FRIEBE, S

ART UNIT	PAPER NUMBER
1632	19

DATE MAILED:

01/19/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Notice of Allowability	Application No. 08/790,043	Applicant(s) Payne et al.
	Examiner Scott D. Priebe, Ph.D.	Group Art Unit 1632

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

This communication is responsive to the amendment filed 1/8/99

The allowed claim(s) is/are 49-60

The drawings filed on _____ are acceptable.

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE THREE MONTHS FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

Applicant MUST submit NEW FORMAL DRAWINGS

because the originally filed drawings were declared by applicant to be informal.

including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. _____.

including changes required by the proposed drawing correction filed on _____, which has been approved by the examiner.

including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152
- Interview Summary, PTO-413
- Examiner's Amendment/Comment
- Examiner's Comment Regarding Requirement for Deposit of Biological Material
- Examiner's Statement of Reasons for Allowance

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EXAMINER'S AMENDMENT

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on 1/14/99, Arthur E. Jackson requested an extension of time for one MONTH(S) and authorized the Commissioner to charge Deposit Account No. 50-0258 the required fee of \$110 for this extension and authorized the following examiner's amendment.

The application has been amended as follows:

The title has been changed to --POLYNUCLEOTIDE ENCODING THE ENOYL-ACYL CARRIER PROTEIN REDUCTASE OF *STAPHYLOCOCCUS AUREUS*, FAB I--.

In the specification at page 6, line 29, "and 1A" was deleted. At page 6, lines 30 and 31; page 14, lines 17, 21, 24, 30 and 33; at page 15, lines 5 and 18; and page 17, lines 10 and 18, --and 2A-- was inserted after each appearance of "Figure 2".

Claims 49, 52, 56 and 57 were amended, and new claim 60 was added, as follows:

E
--49 (Amended). An isolated nucleic acid comprising either a polynucleotide or the complement of the entire length of the polynucleotide, wherein the polynucleotide encodes [a ACP reductase] the FAB I protein of [staphylococcus] *Staphylococcus aureus*, an enoyl-acyl carrier protein (ACP) reductase, which either a) consists of the amino acid sequence set forth in SEQ ID NO: 2 or b) is the [topoisomerase I] FAB I protein of [staphylococcus] *Staphylococcus*

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E₁ Concl. *aureus* WCUH29 deposited as NCIMB No. 40771, or [encodes a polypeptide differing from said FAB I] differs from the FAB I of either (a) or (b) by substitution, insertion or deletion of a single amino acid.

E₂ 52 (Amended). The isolated nucleic acid of claim 49, wherein the ACP reductase is the FAB I protein of [*staphylococcus*] *Staphylococcus aureus* WCUH29 deposited as NCIMB No. 40771.

56 (Amended). A process for producing FAB I of [*staphylococcus*] *Staphylococcus aureus*, said method comprising culturing the isolated host cell of claim 55 under conditions suitable for expression of the polynucleotide thereby producing said FAB I, wherein the polynucleotide is operably linked to a transcription promoter.

E₃ 57 (Amended). An isolated nucleic acid comprising a polynucleotide the codes for the FAB I protein of [*staphylococcus*] *Staphylococcus aureus* WCUH29 deposited as NCIMB No. 40771 or a fragment of said FAB I, [which FAB I consists of the amino acid sequence set forth as SEQ ID NO: 2,] wherein said fragment [consists of contiguous amino acids of SEQ ID NO: 2, and includes a first length of] comprises amino acids numbered 1-20, 21-40, 41-60, 61-80, 81-100, 101-120, 121-140, 141-160, 161-180, 181-200, 201-220, 221-240 or 241-256 [amino acids long] of SEQ ID NO: 2--

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--60. The isolated nucleic acid of claim 49 comprising nucleotides 1-768 of the nucleotide
EY sequence set forth in SEQ ID NO: 1.--

Interference

All claims are allowable. However, due to a potential interference, *ex parte* prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS from the date of this letter. Upon expiration of the period of suspension, applicant should make an inquiry as to the status of the application.

Certain papers related to this application may be submitted to Art Unit 1632 by facsimile transmission. The FAX number is (703) 308-4242 or 305-3014. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 CFR 1.6(d)). NOTE: If applicant *does* submit a paper by FAX, the original copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED, so as to avoid the processing of duplicate papers in the Office.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott D. Priebe whose telephone number is (703) 308-7310. The examiner can normally be reached on Monday through Friday from 9 AM to 5 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Stanton, Ph.D., can be reached on (703) 308-2801.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Scott D. Priebe

Scott D. Priebe, Ph.D.
Primary Examiner
Technology Center 1600
Art Unit 1632